

IN THE UNITED STATES DISTRICT COURT

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

FOR THE SOUTHERN DISTRICT OF GEORGIA

2005 DEC 15 PM 1:20

AUGUSTA DIVISION

CLERK *L. F. [Signature]*
SO. DIST. OF GA.

KENNETH CLARK PRUITT,

Plaintiff,

v.

CV 105-12

RICHARD ROUNDTREE,

Defendant.

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff proceeding pro se in this Title 42, United States Code, Section 1983 action has filed a motion for entry of default judgment against defendant Roundtree. Doc. 22. Plaintiff seeks entry of default judgment on the ground that defendant has not filed an answer to his complaint. Defendant, however, did file a timely answer to plaintiff's complaint on November 23, 2005.¹ Doc. 23. Accordingly, the Court **REPORTS** and **RECOMMENDS** that plaintiff's motion for entry of default judgment, Doc. 22, be **DENIED**.

SO REPORTED and RECOMMENDED this 15th day of December, 2005, at Augusta, Georgia.

W. Leon Barfield
W. LEON BARFIELD
UNITED STATES MAGISTRATE JUDGE

¹The United States Marshal sent a request for waiver of service of process to defendant on September 29, 2005. Under Rule 12(a)(1)(B) of the Federal Rules of Civil Procedure, a defendant who waives service of process must submit his answer within 60 days after the date the request was sent. Defendant waived service of process on October 5, 2005. Doc. 21. Thus, defendant had until November 28, 2005, to file his answer.